



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 21, 1998

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-3209

Dear Ms. Soldano:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120834.

The Department of Transportation (the "department") received a request for records pertaining to a job vacancy, including the interview questions and answers. You submitted to this office samples of the interview questions and answers, which you assert are protected from disclosure under section 552.122 of the Government Code.¹ Section 552.122(b) of the Government Code excepts from disclosure a test item developed by a licensing agency or governmental body.

"Test item" includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Open Records Decision No. 626 at 6 (1994). An evaluation does not necessarily constitute a test, however, simply because the evaluation is labeled as a test, because it is comprised of questions and answers, or because it involves some sort of scoring system. *Id.* Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. *Id.* at 6. The questions and answers comprise an evaluation of an applicant's background and past job experience, but these are not "test items" as defined by section 552.122. The questions and answers at issue may not be withheld from disclosure.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref: ID# 120834

Enclosures: Submitted documents

cc: Ms. Judy Lynn Thorp
1706 Treeline Drive
Cedar Park, Texas 78613
(w/o enclosures)